

PERSONNEL BOARD MINUTES OF THE MEETING OF OCTOBER 25, 2013

Attending:	Gabriel Paez	Chairperson
	Laurie Davis	Associate Member
	Lori Gold	Associate Member
	Rosalie Pincus	Associate Member
	George Castell	Employee Member
	Christopher Diaz	Employee Member
	Evette Phillips	Employee Member
	Sylvia Crespo-Tabak	Human Resources Director and City Liaison
	Robert Rosenwald, Jr.	Senior Assistant City Attorney
Absent:	Moj Khaghan Danial	Vice Chairperson

The Personnel Board meeting was called to order at 9:06 AM by Gabriel Paez, Chairperson.

Item 1: Approval of Minutes.

Upon motion by Chairperson Paez, seconded by Associate Member Pincus, the minutes of the following Personnel Board meetings were approved as written:

- a) May 17, 2013
- b) August 9, 2013
- c) September 20, 2013

Item 2: Review Past Due Performance Evaluation Reports For Classified Employees.

City Liaison Crespo-Tabak notified the Board that the results have improved for various departments. Chairperson Paez pointed out to the Board that statistics for the Police Department continue to increase and requested that the Chief attend the next Board meeting to provide an explanation.

Item 3: Personnel Rules: Review Proposed Changes.

City Liaison Crespo-Tabak opened with a brief explanation about related activities after the September 20, 2013, meeting. During the Committee of the Whole meeting on October 16, 2013, the Commission gave the Administration direction as to the comments that should be provided. The recommendations from Administration are stated on the memorandum dated October 25, 2013 (Attached).

Kathy Phillips, Counsel for the International Association of Fire Fighters (IAFF) stated that the unions had not been given sufficient notice to review the proposed Personnel Rules. Senior Assistant City Attorney Rosenwald asked what she considered an appropriate time frame. Ms. Phillips stated that according to PERC reasonable notice should have been provided; a change to one line would equal to two days' notice.

Pamela Terranova, Counsel for the Communications Workers of America (CWA) stated that after reviewing the proposed changes over four hours, she has five pages of comments.

**PERSONNEL BOARD
MINUTES OF THE MEETING OF OCTOBER 25, 2013**

Chairperson Paez noted for the record that the Rules had been under review for almost two years and that meetings had been noticed. Therefore, he thought all parties had been appropriately noticed that revisions were under consideration.

Associate Member Pincus moved that discussion on the proposed changes be tabled to the next meeting. Associate Member Gold seconded and amended the motion to include that comments be submitted in writing no later than ten days prior to a special meeting during which comments would be reviewed. Ms. Terranova requested that the meeting be in a more informal setting.

Associate Member Gold inquired on the difference between the proposed Personnel Rules that were presented at the September meeting and those presented at the October meeting. City Liaison Crespo-Tabak stated that the changes were limited to formatting; such as tabbing the sections tabbed, double spacing the document and adding the lines numbered.

Chairperson Paez requested that the collected bargaining units present their recommendations and objections no later than Monday, November 25, 2013 to the Human Resources Director and that a special meeting to discuss the proposed Personnel Rules be set for Friday, December 6, 2013.

Associate Member Pincus moved and Associate Member Davis seconded that a discussion on the proposed Personnel Rules be heard at the special meeting.

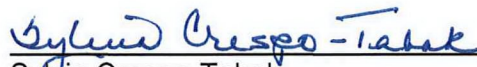
Item 4: Open Forum Discussion.

Richard McKinnon, President Communications Workers of America (CWA), Local #3178 requested that the Board review the Office Associate I through V classifications. Mr. McKinnon stated that the previous Administration deleted classified and bargaining unit positions from the budget and then added to the budget unclassified positions with very similar responsibilities.

City Liaison Crespo-Tabak stated that the Office Associate positions I and II were recently eliminated through the unclassified salary ordinance. City Liaison Crespo-Tabak continued to clarify that the Office Associate III, IV and V report to Directors and work on confidential information. Mr. McKinnon agreed that there are several Office Associates who should be excluded and requested that the Board review the Unclassified Office Associates classification descriptions. Ms. Terranova stated that the issue is the manner in which the Office Associate positions were created. Senior Assistant City Attorney Rosenwald requested indication on where is it stated that the Personnel Board has authority over unclassified positions. Mr. McKinnon replied the Section 13 of the Civil Service Act gave the Board that authority. Chairperson Paez expressed a desire to review the Unclassified Office Associate classification job specifications.

The meeting adjourned at 9:51 AM.

Attachment


Sylvia Crespo-Tabak
Human Resources Director



MIAMI BEACH

City Manager's Office

MEMORANDUM

TO: Personnel Board Members

FROM: Jimmy L. Morales
City Manager

DATE: October 25, 2013

SUBJECT: Proposed Changes to the Personnel Rules for the Classified Service

On behalf of the administration of the City of Miami Beach I want to thank you for reviewing the personnel rules to the extent that you have. I know it was a laborious, time-consuming project that you, as volunteers, willingly undertook.

I was especially pleased to see the inclusion of a code of ethics. As someone truly committed to transparency in government, I commend you for clearly setting forth the ethical standards by which employees must abide. Given the concerted effort everyone associated with the City is making to recover and maintain the public's trust, providing employees with clear expectations regarding their conduct on and off duty is a significant step in the right direction.

Nevertheless, below are recommendations the administration would like you to consider.

Rule VIII, Method of Filling Vacancies, Section 7; *Appointment to the Unclassified Service*. The proposed change to this section is significant since it strips employees appointed to the unclassified service of their classified service rights except for the first 90 work days after reporting to the unclassified position or 365 calendar days should the employee be laid off from the unclassified position.

We are of the opinion that employees should always retain their classified service rights in case of a lay-off and for disciplinary purposes, if while in the unclassified service the infraction or failure to perform does not merit dismissal from City employment. Additionally, appointing authorities need to retain the managerial discretion to return an unclassified employee to the classified service under appropriate circumstances and with the City Manager's concurrence. Attached is proposed language for your consideration.

In Rule X, Disciplinary Action, Section 5, *Suspensions*; the proposal is to require the Human Resources Director to determine that an indictment or information of charges be job related or create a potential conflict prior to taking administrative action. The administration is not in agreement with this proposed change as it is in conflict with item 19, in Section 2; *Grounds for Disciplinary Action*, "Has been guilty of actions which amount to disgraceful conduct while on or off duty." The administration firmly believes that its discretion to take adverse personnel actions based on disgraceful conduct should not be restricted by a well-intended rule that has the potential to have unintended consequences.

The same must be said about your proposed change to item 3 in the same section. The rule originally read, "Has been guilty of conduct unbecoming an employee of the City." The proposal is to add the following, "including, but not limited to, failure to report a felony indictment or other criminal action that may be job related, failure to report knowledge of or reasonable basis of suspicion, of another employee's theft of time, money, property, fraud, embezzlement or corruption." Again, the administration finds the terminology, "that may be job related" too restrictive and not necessarily in the best interests of the City. An employee may violate the code of ethics or engage in other inappropriate behavior that at face value does not appear job related, but the behavior itself brings reproach to the City and merits administrative action.

I congratulate you once again on the exceptional job you undertook. All of us who work for the City owe you a debt of gratitude for your selfless dedication.

If you have any questions regarding our input, please do not hesitate to contact me.

Attachment

JLM/KGB/SC-T

c: Mayor Mattie Herrera Bower and City Commissioners
Jose Smith, City Attorney
Don Papy, Chief Deputy City Attorney
Sylvia Crespo-Tabak, Human Resources Director
Management Team

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1 **RULE ~~VH~~VIII. METHODS OF FILLING VACANCIES**

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3 **SECTION ~~97~~7: APPOINTMENT TO UNCLASSIFIED SERVICE:**

4 (a) ~~___~~ When ~~any~~a Regular employee in the Classified Service ~~shall be~~is appointed to ~~an office~~
5 ~~or position~~a Position in the ~~Unclassified Service~~~~his/her position~~unclassified service, the
6 Position in the Classified Service ~~shall be~~is considered ~~vacated~~vacant, and shall be filled by the
7 regular procedures which apply to filling such ~~positions~~Positions on a permanent basis. The
8 Regular employee so appointed to the ~~Unclassified office or~~unclassified position shall retain
9 his/her Classified Service title and status. ~~(Amended 2/15/91)~~

10 (b) A Classified Service employee who accepts an unclassified position, may voluntarily
11 elect to the return to the Position last held in the Classified Service within 90 work days from the
12 first work day the employee reported to work in the unclassified service. If the employee
13 exercises this option, the employee's length of service in the Classified Service will not have
14 been interrupted. The 90 work days includes the first day the employee reports to the
15 unclassified position and includes any scheduled work day thereafter whether the employee
16 actually works or not. Within the 90-word day period, any scheduled work day the employee
17 does not work pursuant to leave under the FMLA or USERRA shall not count toward the 90
18 work days.

19 (b) If such employee is separated from his/her Unclassified office or position due to budgetary
20 constraints or because the Appointing Authority considers it to be in the City's best interest,
21 he/she shall be returned to the position and classification in the Classified Service which he/she
22 held immediately prior to becoming an Unclassified employee with compensation within the
23 salary range then prevailing for such classification.

24 (c) Egregious misconduct by an unclassified service employee who also has Classified
25 Service rights may result in termination from employment or any other disciplinary measure
26 appropriate to the circumstances of the individual case. Unclassified service employees
27 possessing Classified Service rights who are involuntarily separated from employment due to
28 their misconduct, forfeit their Classified Service rights and do not have the right to grieve or
29 appeal the dismissal.

59 (ed) In the event the Classified Service classification of such employee has been abolished or
60 otherwise discontinued, such employee shall be placed in a Classified position at the same level
61 as his/her Classified Service classification for which, in the opinion of the ~~Personnel~~ Human
62 Resources Director, as approved by the Personnel Board, he/she possess at least minimum
63 qualifications. If there is no classification at such level, he/she shall be placed in a Classified
64 position at the next lower level for which, in the opinion of the ~~Personnel~~ Human Resources
65 Director, as approved by the Personnel Board, he/she possesses at least minimum qualifications.
66 In either of such events said employee shall be placed in such Classified position with
67 compensation within the salary range then prevailing for such classification, ~~but not lower than~~
68 ~~the salary range held by such employee when appointed to the Unclassified office.~~

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